

236-269254-13

FILED  
TARRANT COUNTY  
9/16/2014 9:49:59 AM  
THOMAS A. WILDER  
DISTRICT CLERK**CAUSE NO. 236-269254-13**

**Shawn Coker, Neighborhood Partner, Inc,** § **IN THE DISTRICT COURT**  
**Blue Moon Realty Group, and Wizard** §  
**Funding, LLC** §  
 v. § **236TH JUDICIAL DISTRICT**  
 §  
**David C. Boles, Metro Buys Homes, LLC,** §  
**Metro Affordable Homes, Inc., and** §  
**Metro Buys Homes II, LLC** § **TARRANT COUNTY, TEXAS**

**MOTION FOR TURNOVER ORDER AND  
FOR APPOINTMENT OF TURNOVER RECEIVER**

TO THE HONORABLE COURT:

The judgment creditors, referred to in this motion as Movants, apply for an order to aid the satisfaction of a judgment rendered by the Court in favor of Movants and against the above-named judgment debtors, referred to as Defendants, and as grounds for the order shows:

**I.**

Movants, as the Plaintiffs in the underlying lawsuit, in the above styled and numbered cause, were awarded judgment of this Court on November 14<sup>th</sup>, 2013 against the defendants, jointly and severally, for damages totaling \$1,488,336.78, together with interest on that amount from the date of judgment until paid, and costs of court. The judgment is now final, fully enforceable, and due to Movant with 5% per annum post-judgment interest accruing from the date of judgment.

**II.**

Defendant owns or controls one or more properties not exempt from attachment, execution, or other seizure for the satisfaction of liabilities. These properties, their value and location, are described as follows:

1. Real estate interests, including but not limited to the following:

Real estate rented or promissory notes secured by real estate with the following persons on the following twenty-eight properties:

<b>Borrower</b>	<b>Collateral Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>	<b>Instrument #</b>
Cardenas, Viridiana	1613 Yale St.	River Oaks	TX	76114	D212042130
Diaz, Melecio	2120 Daniel St.	Fort Worth	TX	76104	D208154893, D210312369
Lazo, Joel	4109 Earl St.	Haltom City	TX	76111	D211066639, D211066640

236-269254-13

Nerio, Victor & Conrada	2725 Ave C	Fort Worth	TX	76105	D202106361
Solis, A & A Cervantes	1308 E. Jessamine St.	Fort Worth	TX	76104	D203069980
Silva, Adan & Margarita	2144 Ridgeview St.	Fort Worth	TX	76119	D210092278, D210092279
Chavez, Angel	3920 Frazier Ave	Fort Worth	TX	76110	D199060268
Ortega, Ulysses & S Oropeza	8405 Sussex St.	White Settlement	TX	76104	D211035864
Michelle Davila Flores	206 N.W. 15th St.	Grand Prairie	TX	75050	200900347733
Monservata Garza	3701 Forbes St.	Fort Worth	TX	76105	D210094643, D210094644
Arzaga, Diego & Yessica	1214 Cambridge St.	River Oaks	TX	76114	D211047913, D211047914
Bertha V. Moreno	3725 Ave J	Fort Worth	TX	76105	D210233765, D210233766
Smith, David H	3417 Hatcher St.	Fort Worth	TX	76119	D200123197
Judith Corvec	2404 Northglenn Drive	Fort Worth	TX	76119	D210257098
Shawn D. Hastings & Manuela Martinez	3709 Millett Ave	Fort Worth	TX	76105	D200255400
Jose T. Gomez & Maria I. Gomez	3316 Skyline Drive	Fort Worth	TX	76114	D204257913
Patricia Lochridge	937 Nannette St.	Fort Worth	TX	76114	D209075209
Ophelia Gomez	4228 Ave N	Fort Worth	TX	76105	D211154807
Gonzales, Maria	4809 Old Mansfield Road	Fort Worth	TX	76119	D210094737
Martin J Najera and Claudia Cabral	3629 Baylor St.	Fort Worth	TX	76119	D211077985
Francisco J. Sepulveda-Raya & Maria D. Sepulveda	515 N. Hansbarger St.	Everman	TX	76140	D202154024
Zhyla Alvarado and Jaquita Simmons	905 Pangburn Ave	Grand Prairie	TX	75051	D212042132
Raymundo Garcia M. and Elena N. Santos	1303 E. Morphy St.	Fort Worth	TX	76104	D209338355
Delmy Benitez Torres	3220 Collin St.	Fort Worth	TX	76119	D201296107
Jesse D. Chenoweth and Valerie Grace Tejeda Chenoweth	2420 Purselley Ave	Fort Worth	TX	76112	D209238737
Mendoza, Maria	5013 Lyndon D.	Fort Worth	TX	76116	D211092772

236-269254-13

Guadalupe Corona and Maria Carmen Herrera	4212 Emerson St.	Fort Worth	TX	76119	D211154804
Pablo Orona	1902 Ida St.	Arlington	TX	76010	D210183678

Given the location and status of these properties, they are worth less than half of the value of the judgment, and likely less than a quarter of the value. Given the uncertainty on underwriting and origination, the loans are likely worth significantly less than the properties themselves.

### Exhibits

The following attached exhibits show additional non-exempt real estate assets subject to process:

Exhibit A: A list of properties and mortgages secured by the note, referred to in the judgment, payable to Neighborhood Partner, Inc.

Exhibit B: A list of mineral rights acquired by the judgment debtors. Most of these have been leased to Chesapeake Operating, Inc.

Exhibit C: A list of properties that the judgment debtors acquired interests in. Research needs to be done to determine whether the judgment debtors have retained interests in these properties or others.

2. Cash in checking, savings, and other bank accounts. The cash appears to be leaving the accounts as soon as it arrives.
3. Business equipment including computers and software.
4. Financial and other business records, including but not limited to pay histories, insurance records, and any other records pertaining to the non-exempt assets
5. Financial instruments including checks, promissory notes, and money orders.

### III.

The property owned or controlled by Defendant listed above cannot be readily attached or levied on by ordinary legal process. The bank accounts can only be reached by garnishment, which is an extraordinary remedy. Moreover, the plaintiffs have had writs of execution issue, once in March of this year and again in August. The Constable of Precinct 3, Tarrant County, has through counsel at the Civil Division of the Tarrant County District Attorney, requested that the plaintiffs apply for turnover relief in lieu of the execution process because "The complex nature of this case makes ordinary service of process unnecessarily complex and burdensome to the point that the parties to the case and the properties associated with the case risk being forever being stained with improper legal descriptions and a host of other issues that will cloud the titles

236-269254-13

of the affected properties because of the manner in which the properties were mortgaged by a private individual who provided the financing for the individuals to buy their homes in the first place. Further, the complexity of this case as well as the diverse nature and location of the legal instruments associated with the case also make ordinary process impractical and expensive. Consequently, a turnover order will simplify the process without the burden and complexity of providing ordinary service.”

## IV.

Movant asks the court to appoint an appropriate person, Ian Ghrist, as receiver of the property and order Defendant to turn over the property and the rights to receive such property, as well as all documents and records relating to the property, to the receiver. The Court should authorize and empower the receiver to seize or otherwise take possession and control of all of Defendant’s right, title, and interest in nonexempt property and to sell property now known or later discovered, manage the business of the judgment debtors, collect and disburse proceeds of income-producing property, seize and compel turnover of bank accounts. The Court should further authorize and empower the receiver to seize and compel the debtor to turn over all real estate (other than homestead), all bank accounts, all accounts receivable, all instruments, all notes, all deeds of trust, all leases, all cash, all equipment, all software, all business records, all causes of action, all income from business, all property located outside Texas, all nonexempt property held by third party yet subject to the debtor’s control, and all shares of stock or other business equity. The Court should further authorize and empower the receiver to sell property to satisfy the judgment or to turn over property to the constable for sale. The Court should finally authorize the receiver and the constable to issue appropriate deeds and such other instruments as necessary to convey the sold property to the buyers of such property. Alternatively or in addition, Movant requests that the Court order Defendant to turn over the property listed above, together with all documents and records related to the property, to the County Sheriff for sale as under writ of execution and application of the proceeds to the satisfaction of Movant’s judgment.

## V.

As a result of Defendant’s failure and refusal to pay the judgment rendered in this cause, Movant has been required to retain the undersigned legal counsel to institute and prosecute this motion. Movant will pay and incur liability to pay the fees for those services. Movant is, therefore, entitled to recover from Defendant the sum of \$2,500.00 as a reasonable fee for the attorney’s services rendered and to be rendered in this Court. In the event of an appeal or other proceeding in the court of appeals, Movant would be further entitled to \$5,000.00 as a reasonable attorney’s fee; in the event of an appeal or other proceeding in the Texas Supreme Court, Movant would be entitled to an additional \$10,000.00.

## VI.

WHEREFORE, Movant requests that the Court:


After notice and hearing, grant this motion and:

236-269254-13

- a. **Appoint a qualified person, Ian Ghrist, as receiver** for the property described in this motion.
  - b. Order Defendant to turn over and deliver to the receiver or to the constable, without delay, all property listed in this motion and all documents relating to or evidencing Defendant's interest in that property.
  - c. Direct and empower the receiver to possess, control, and deal with the property as set out in this motion or otherwise so as to apply the property toward satisfaction of Movant's judgment.
3. Render judgment against Defendant in favor of Movant for attorney's fees as requested, together with interest as allowed by law, costs of suit, and such other and further relief as to which Movant may be entitled.

Respectfully submitted,

Ghrist Law Firm

By:  \_\_\_\_\_

Ian Ghrist

State Bar No. 24073449

1210 Hall Johnson Road, Suite 100C

Colleyville, Texas 76034

Ph. 817-778-4136

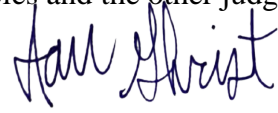
Fax 817-485-1117

ian@ghristlaw.com

236-269254-13

### **CERTIFICATE OF SERVICE**

I certify that a true copy of the above Motion for Turnover Order has this day been delivered via eFile.TXCourts.gov to Rick Disney, attorney of record for David Boles and the other judgment debtors, at rdisney@csa-lawfirm.com.



---

Ian Ghrist

Rick Disney  
Attorney for Metro Buys Homes, LLC, David C. Boles,  
Metro Affordable Homes, Inc. and Metro Buys Homes II, LLC  
Cotton, Schmidt & Abbott, LLP  
550 Bailey Ave., Suite 600  
Fort Worth, Texas 76107  
Phone 817-338-4500  
Fax 817-338-4599